

EXHIBIT 1

Virginia Department of Corrections
COMMENTS SOUGHT ON ALTERNATIVE RULEMAKING PROPOSALS
REGARDING ISSUES RELATED TO INMATE CALLING SERVICES

DATE: 5/1/07

FCC Docket No.: 96-128

Recommended Action: Oppose

Comments:

The Virginia Department of Corrections does not support the proposed rule, if adopted, that would establish long distance inmate telephone service rate limits of \$0.20 per minute for debit (prepaid) calls and \$0.25 per minute for collect calls, with no per-call charge.

The Virginia Department of Corrections (VADOC) wants to continue to negotiate rates directly with the contract provider to ensure that the Commonwealth is entitled to the same competitive profit margins as found in the private sector. Also, the Virginia Department of Corrections utilizes commission monies attained from the inmate phone system to fund the Victim Information Network (VINES). The VINES system is utilized to notify victims' of changes in the status of Virginia prisoners. Such as if the inmate is scheduled for a parole review or has been transferred to a new prison facility. It is uncertain with the proposed commission funding cuts if the Victim Information Network (VINES) could continue to operate.

The inmate phone system contractor also provides telephone intelligence for investigation purposes. The contractor retrieves phone call data and provides information to the Virginia State Police, Secret Service and the Federal Bureau of Investigation. It is uncertain with the proposed commission funding cuts if the current contractor would continue to contract with the Commonwealth and thereby provide these investigative services.

EXHIBIT 2



NATIONAL SHERIFFS' ASSOCIATION

Received & Inspected
AUG 21 2008

DOCKET FILE COPY ORIGINAL

FCC Mail Room

AARON D. KENNARD
Sheriff (Retired)
Executive Director

1450 Duke St.
Alexandria, VA 22314
703.836.7827 phone
703.683.6541 fax
www.sheriffs.org
nsamail@sheriffs.org

August 11, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW – TW-A325
Washington, D.C. 20554

Re: Docket 96-128, Alternative Rulemaking Proposal of Martha Wright, et al.

Dear Ms. Dortch:

On behalf of the National Sheriffs' Association and the over 3,000 sheriffs across the United States, I am writing to express our strong concern regarding the Alternative Rulemaking Proposal filed by Martha Wright to impose new regulations on inmate telephone services. The Nation's sheriffs believe that the Proposal would seriously hamper the ability of sheriffs to effectively manage our nation's jails.

The Proposal requests an order from the Federal Communications Commission that will set a nationwide mandatory rate cap for interstate calls and will require debit calling in every jail. Granting this Proposal would be extremely harmful to correctional institutions, detainees, criminal investigators, inmate telephone service providers, and the public.

Inmate telephone services are procured by correctional authorities via a public bidding process. Correctional authorities rely on the inmate telephone system in order to preserve inmate safety and to root out unlawful activities. The rate cap that Ms. Wright proposes would hinder the ability of service providers to continue providing and developing these features.

We urge the Commission to deny the Alternative Rulemaking Petition on the grounds that it threatens the security of correctional facilities.

Sincerely,

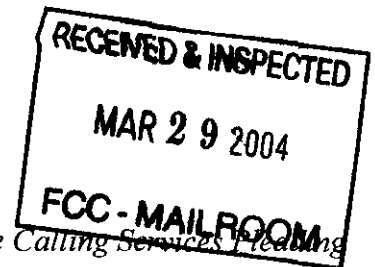
Aaron D. Kennard
Executive Director

No. of Copies rec'd 0
List A B C D E

EXHIBIT 3

March 22, 2004

DOCKET FILE COPY ORIGINAL



Marlene H. Dortch, Secretary
Federal Communications Commission 445 1e Street, SW
Washington, DC 20554

RE: Comments on *Petition for Rulemaking Filed Regarding Issues Related to Inmate Calling Services Hearing Cycle Established, Public Notice*, CC Docket 96-128, DA 03-427 (rel. Dec. 31, 2003)

Dear Ms. Dortch

Currently, I am administer of the Custer County Jail in the State Oklahoma; I have 12 years in prison administration. As such I am familiar with the technological and penological issues relating to the provision of telecommunications services to inmates.

I am aware of the above-referenced proposal, which is before the Commission, and I am submitting this letter in response to the FCC's request for comments. I am concerned about the proposal for a number of reasons.

First, as this Commission has previously recognized, security interests are paramount in the unique environment provision of inmate calling services. Existing technologies involving a single service provider, usually selected by competitive bidding, have met the need to ensure that inmates are (a) not engaging in illegal activities (b) not contacting individuals to make threats of engage in harassment, (c) contacting only those persons that we authorize them to contact and (d) are not liking or planning any other actions that would compromise the safety and security of our facility. It is the responsibility of the facility administrator to determine how best to serve those goals. The FCC should not hamstring that discretion by requiring a system that we know, from experience, meets those requirements, with one that with multiple options, connections, and choices may give inmates the opportunity to circumvent them.


Second, the wholesale revamping of the economic structure of the provision of inmate services could actually wind up to the detriment of the inmates themselves. For example, restriction or elimination of commission payments, which are used to support certain programs and services for the inmate population, would require allocation of funds from other sources. In this time of severe budget constraints those sources may not exist and the result may be a reduction in these activities.

Third, the analysis of the costs of such a radical change seems to assume a "one-size-fits-all" redesign and rebuild for any and every facility. That is just not the case. Moreover, at a rate of a few cents a minute, there is no assurance that providers will be prepared to invest or continue to invest the capital needed to deploy the sophisticated hardware and software used in providing telecommunications services in confinement facilities.

Fourth, while prepaid calling has its advantages it would be a mistake to require -all calls to be prepaid. There are some inmates who will require the option of collect calling. In addition, it is the facility that ends up administering the prepaid program, including the sale of the cards. This additional administrative burden requires use of confinement facility resources that are already shrinking and overtaxed. Finally, as observed by the petitioners' expert himself, use of prepaid cards/accounts is a form of "commoditizing" the service, which can create the potential for prisoner confrontations.

Overall, the petition has just not made a case for the wholesale scrapping of a system that has effectively met legitimate security and other concerns. For the Commission to mandate such a system in effect preempts the discretion that must be left with confinement facility administrators as to how to provide telecommunications services and puts the Commission in the role, in effect, of running at least this portion of the facility. Therefore, the petition should be denied.

Sincerely yours,

Mike Burgess Sheriff

Custer County, Oklahoma

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List ABCDE

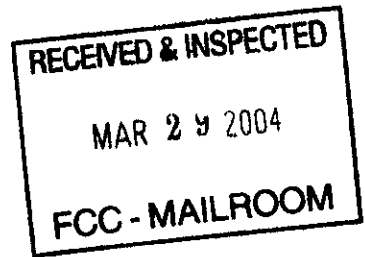
SHERIFF

DOCKET FILE COPY ORIGINAL



BOBBY L. MEDFORD

BUNCOMBE COUNTY DETENTION FACILITY



March 23, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Comments on *Petition for Rulemaking Issues Related to Inmate Calling Services Pleading Cycle Established, Public Notice*, CC Docket 96-128, DA 03-427 (rel. Dec. 31, 2003)

Dear Ms. Dortch:

Currently, I am the Director for the Buncombe County jail in the State of North Carolina. I have 17 years in jail administration. As such I am familiar with the technological and penological issues relating to the provision of telecommunications services to inmates

I am aware of the above-referenced proposal, which is before the Commission, and I am submitting this letter in response to the FCC's request for comments. I am concerned about the proposal for a number of reasons.

First, as this Commission has previously recognized, security interests are paramount in the unique environment provision of inmate calling services. Existing technologies involving a single service provider, usually selected by competitive bidding, have met the need to ensure that inmates are (a) not engaging in illegal activities (b) not contacting individuals to make threats of engage in harassment, (c) contacting only those persons that we authorize them to contact and (d) are not taking or planning any other actions that would compromise the safety and security of our facility. It is the responsibility of the facility administrator to determine how best to serve those goals. The FCC should not hamstring that discretion by requiring a system that we know, from experience, meets those requirements, with one that with multiple options, connections, and choices may give inmates the opportunity to circumvent them.

Second, the wholesale revamping of the economic structure of the provision of inmate services could actually wind up to the detriment of the inmates themselves. For example, restriction or elimination of commission payments, which are used to support certain programs and services for the inmate population, would require allocation of funds from other sources. In this time of severe budget constraints those sources may not exist and the result may be a reduction in these activities.

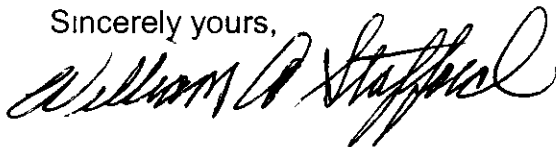
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Third, the analysis of the costs of such a radical change seems to assume a "one-size-fits-all" redesign and rebuild for any and every facility. This is just not the case. Moreover, at a rate of a few cents a minute there is no assurance that providers will be prepared to invest or continue to invest the capital needed to deploy the sophisticated hardware and software used in providing telecommunications services in confinement facilities.

Fourth, while prepaid calling has its advantages it would be a mistake to require all calls to be prepaid. There are some inmates who will require the option of collect-calling. In addition, it is the facility that ends up administering the prepaid program, including the sale of the cards. This additional administrative burden requires use of confinement facility resources that are already shrinking and overtaxed. Finally, as observed by the petitioner's expert himself, use of prepaid cards/accounts is a form of "commoditizing" the service, which can create the potential for prisoner confrontations.

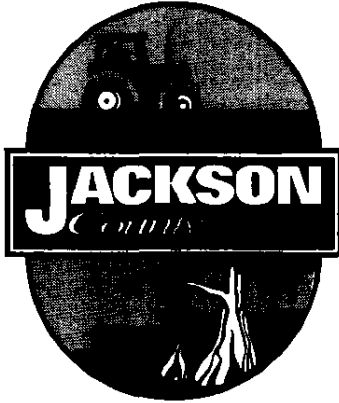
Overall, the petition has just not made a case for the wholesale scrapping of a system that has effectively met legitimate security and other concerns. For the Commission to mandate such a system in effect preempts the discretions that must be left with confinement facility administrators as to how to provide telecommunications services and puts the Commission in the role, in effect, of running at least this portion of the facility. Therefore, the petition should be denied.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William A. Stafford". The signature is fluid and cursive, with the first name "William" being the most prominent part.

Major William A. Stafford
Facility Administrator

WAS/dem



JACKSON COUNTY CORRECTIONAL FACILITY

Confirmed

APR 26 2004

Distribution Center

2737 Penn Avenue
Marianna, Florida 32448

RECEIVED

MAY - 5 2004

March 24, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

RE: Comments on *Petition for Rulemaking Filed Regarding Issues Related to Inmate Calling Services Pleading Cycle Established, Public Notice*, CC Docket **96-128**, DA 03-427 (rel. Dec. 31, 2003)

Dear Ms. Dortch:

Currently, I am the Chief of Corrections for the Jackson County Correctional Facility in the State of Florida, County of Jackson. I have 20 years in prison administration. As such I am familiar with the technological and penological issues relating to the provision of telecommunications services to inmates.

I am aware of the above-referenced proposal which is before the Commission and I am submitting this letter in response to the FCC's request for comments. I am concerned about the proposal for a number of reasons.

First, as this Commission has previously recognized, security interests are paramount in the unique environment provision of inmate calling services. Existing technologies involving a single service provider, usually selected by competitive bidding, have met the need to ensure that inmates are (a) not engaging in illegal activities (b) not contacting individuals to make threats of engage in harassment, (c) contacting only those persons that we authorize them to contact and (d) are not taking or planning any other actions that would compromise the safety and security of our facility. It is the responsibility of the facility administrator to determine how best to serve those goals. The FCC should not hamstring that discretion by requiring a system that we know, from experience, meets those requirements, with one that with multiple options, connections, and choices may give inmates the opportunity to circumvent them.

Second, the wholesale revamping of the economic structure of the provision of inmate services could actually wind up to the detriment of the inmates themselves. For example, restriction or elimination of commission payments which are used to support certain programs and services for the inmate population would require allocation of funds from other sources. In this time of severe budget constraints those sources may not exist and the result may be a reduction in these activities.

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Third, the analysis of the costs of such a radical change seems to assume a "one-size-fits-all" redesign and rebuild for any and every facility. That is just not the case. Moreover, at a rate of a few cents a minute there is no assurance that providers will be prepared to invest or continue to invest the capital needed to deploy the sophisticated hardware and software used in providing telecommunications services in confinement facilities.

Fourth, while prepaid calling has its advantages it would be a mistake to require all calls to be prepaid. There are some inmates who will require the option of collect-calling. In addition, it is the facility that ends up administering the prepaid program, including the sale of the cards. This additional administrative burden requires use of confinement facility resources that are already shrinking and overtaxed. Finally, as observed by the petitioner's expert himself, use of prepaid cards/accounts is a form of "commoditizing" the service, which can create the potential for prisoner confrontations.

Overall, the petition has just not made a case for the wholesale scrapping of a system that has effectively met legitimate security and other concerns. For the Commission to mandate such a system in effect preempts the discretion that must be left with confinement facility administrators as to how to provide telecommunications services and puts the Commission in the role, in effect, of running at least this portion of the facility. Therefore, the petition should be denied.

Sincerely yours,
Mark A. Henry

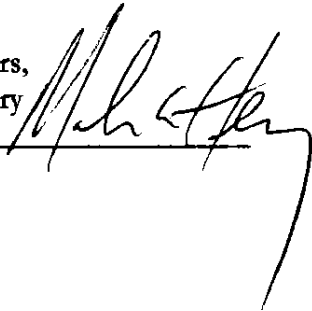
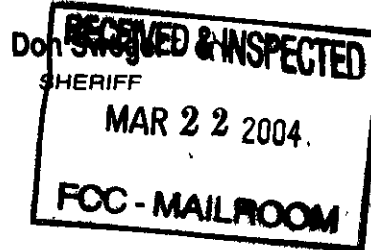
A handwritten signature in dark ink, appearing to read 'Mark A. Henry', is written over a horizontal line. The signature is stylized with a large, sweeping 'M' and a long, trailing flourish that extends downwards and to the right.

EXHIBIT 4

PAWNEE COUNTY SHERIFF'S OFFICE

www.law-enforcement.org/pawnees/ • 500 E. Harrison • Room B-1 • Pawnee, OK 74058

SUB-STATION
918-243-5394
Fax 918-243-7791



OFFICE/JAIL
918-762-2565
Fax 918-762-3335

March 10, 2004

Marlene H Dortch, Secretary
Federal Communications Commission 445 le Street, SW
Washington, DC 20554

RE: Comments on *Petition for Rulemaking Filed Regarding Issues Related to Inmate Calling Services Pleading Cycle Established, Public Notice*, CC Docket 96-128, DA 03-427 (rel Dec 31, 2003)

Dear Ms Dortch.

Currently, I administer the County Jail in the County of Pawnee, State of Oklahoma I have 05 years in prison administration. As such I am familiar with the technological and penological issues relating to the provision of telecommunications services to inmates

I am aware of the above-referenced proposal, which is before the Commission, and I am submitting this letter in response to the FCC's request for comments. I am concerned about the proposal for a number of reasons.

First, as this Commission has previously recognized, security interests are paramount in the unique environment provision of inmate calling services. Existing technologies involving a single service provider, usually selected by competitive bidding, have met the need to ensure that inmates are (a) not engaging in illegal activities (b) not contacting individuals to make threats of engage in harassment, (c) contacting only those persons that we authorize them to contact and (d) are not liking or planning any other actions that would compromise the safety and security of our facility It is the responsibility of the facility administrator to determine how best to serve those goals The FCC should not hamstring that discretion by requiring a system that we know, from experience, meets those requirements, with one that with multiple options, connections, and choices may give inmates the opportunity to circumvent them.

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Overall, the petition has just not made a case for the wholesale scrapping of a system that has effectively met legitimate security and other concerns. For the Commission to mandate such a system in effect preempts the discretion that must be left with confinement facility administrators as to how to provide telecommunications services and puts the Commission in the role, in effect, of running at least this portion of the facility. Therefore, the petition should be denied.

Sincerely yours,


Sheriff W. Don Sweger

EXHIBIT 5



October 11, 2011

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Stephanie A. Joyce

Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

Re: CC Docket No. 96-128, *Alternative Rulemaking Proposal of Martha Wright, et al.*

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") files this letter to provide the Commission with the updated cost information offered in its previous letter dated September 20, 2011.

Securus has reviewed its overall cost of service for providing inmate telecommunications service. Securus used whole-year data that was available after the submission of the industry cost study (the "Wood Study") in 2008. The data reviewed is specific to Securus and does not represent the costs of any other company that was involved in the Wood Study.

Securus estimates that its overall per-call costs have increased approximately 16.3%. Its overall per-minute costs have increased approximately 16.5%.

Please do not hesitate to contact me with any additional questions or concerns: 202.857.6081. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

Counsel for Securus Technologies, Inc.

cc: Chairman Julius Genachowski (*via electronic mail*)
Commissioner Michael Copps (*via electronic mail*)
Commissioner Robert McDowell (*via electronic mail*)
Commissioner Mignon Clyburn (*via electronic mail*)
Sharon Gillett, Chief, Wireline Competition Bureau (*via electronic mail*)
Austin Schlick, General Counsel (*via electronic mail*)
Zachary Katz, Legal Advisor to Chairman Genachowski (*via electronic mail*)

Arent Fox

Margaret McCarthy, Policy Advisor to Commissioner Copps (*via electronic mail*)
Christine Kurth, Legal Advisor to Commissioner McDowell (*via electronic mail*)
Angela Kronenberg, Legal Advisor to Commissioner Clyburn (*via electronic mail*)
Albert Lewis, Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Marcus Maher, Legal Advisor to Chief of the Wireline Competition Bureau (*via electronic mail*)
Pamela Arluk, Assistant Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Michelle Berlove, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Jennifer Prime, Acting Legal Advisor, Office of the Bureau Chief, Wireline Competition Bureau (*via electronic mail*)

EXHIBIT 6



May 10, 2012

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Stephanie A. Joyce

Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

Re: CC Docket No. 96-128, Alternative Rulemaking Proposal of Martha Wright, et al.

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") hereby files, on the attached page, a sample of its current rates for inmate calling services.

Note the broad variation in the calling rates listed on the attachment. This variation in rates is in large part of function of the size of the correctional facility and the volume of inmate calls. Note also that the type of facility — state vs. county — is not necessarily the determinant of call volume: the local and long-distance rates at the Santa Fe County facility are lower than the rates at three of the state facilities listed in the table. For these reasons, it is difficult to derive one calling rate or set of calling rates (local, intrastate long distance, interstate long distance) for the inmate telecommunications industry.

Securus just recently won the service contracts for the Missouri Department of Corrections and the New Mexico Department of Corrections. The calling rates at those facilities are extremely low, which is a function of both the fierce competition for contracts and the new technologies that Securus has invented and deployed in order to increase its economies of scale and decrease its costs of service.¹

Every contract on the attachment but three involves a site commission. In two states, Maryland and Texas, site commissions are imposed by state statutes. We have provided citations to those statutes. For the remaining contracts, excluding New Mexico and Missouri, site commissions were requested in the public bidding process, and now are secured by the express terms of Securus's contracts with the correctional authorities. In New Mexico, percentage-based site commissions were abolished by a statute enacted in 2001, NMSA 1978 § 33-14-1.

¹ Securus has experienced, however, an increase in overall costs of approximately 16.5% since 2008 due to increased costs of regulatory compliance and the costs associated with billing and collection agreements. CC Docket No. 96-128, Letter from Stephanie A. Joyce to Marlene H. Dortch (Oct. 11, 2011).

Arent Fox

Please do not hesitate to contact me with any questions: 202.857.6081.

Sincerely,

s/Stephanie A. Joyce

Counsel to Securus Technologies, Inc.

Cc: Chairman Julius Genachowski
Michael Steffen, Legal Advisor to Chairman Genachowski
Commissioner Robert McDowell
Christine Kurth, Legal Advisor to Commissioner McDowell
Commissioner Mignon Clyburn
Angela Kronenberg, Legal Advisor to Commissioner Clyburn
Austin Schlick, General Counsel
Diane Griffin Holland, Deputy Associate General Counsel
Victoria Goldberg – Acting Chief, Pricing Policy Division, Wireline Competition Bureau
Deena Shetler – Associate Bureau Chief, Wireline Competition Bureau
Nicholas Alexander – Deputy Division Chief, Pricing Policy Division
Pamela Arluk – Assistant Division Chief, Pricing Policy Division, Wireline Competition Bureau
Marcus Maher, Office of General Counsel
Raelynn Remy, Office of General Counsel
Travis Litman – Wireline Competition Bureau
Michele Berlove – Wireline Competition Bureau

All via electronic mail

Inmate Collect Call Rates – Securus Technologies, Inc.

This rate sheet should be read in conjunction with the letter from Stephanie A. Joyce to Marlene H. Dortch, CC Docket No. 96-128 (May 10, 2012)

Facility	Local Call			In-State LD Call			Interstate LD Call		
	Per-Call Charge	Per-Min. Charge	12-minute call	Per-Call Charge	Per-Min. Charge	12-minute call	Per-Call Charge	Per-Min. Charge	12-minute call
<u>STATE DOC FACILITIES</u>									
Florida DOC	\$ 0.50	\$ -	\$ 0.50	\$ 1.20	\$ 0.06	\$ 1.92	\$ 1.20	\$ 0.06	\$ 1.92
Maryland DOC 1)	\$ 0.85	\$ -	\$ 0.85	\$ 2.55	\$ 0.30	\$ 6.15	\$ 2.70	\$ 0.30	\$ 6.30
Missouri DOC	\$ 1.00	\$ 0.05	\$ 1.60	\$ 1.00	\$ 0.05	\$ 1.60	\$ 1.00	\$ 0.05	\$ 1.60
New Mexico DOC	\$ 0.65	\$ -	\$ 0.65	\$ 0.65	\$ -	\$ 0.65	\$ 0.65	\$ -	\$ 0.65
Texas DCJ 2)	\$ -	\$ 0.26	\$ 3.12	\$ -	\$ 0.26	\$ 3.12	\$ -	\$ 0.43	\$ 5.16
<u>COUNTY FACILITIES</u>									
Santa Fe County, NM	\$ 0.50	\$ -	\$ 0.50	\$ 0.50	\$ 0.10	\$ 1.70	\$ 0.50	\$ 0.10	\$ 1.70
Cumberland County, IL	\$ 3.50	\$ 0.301	\$ 7.11	\$ 3.50	\$ 0.301	\$ 7.11	\$ 3.50	\$ 0.301	\$ 7.11
Columbia County, WA	\$ 2.25	\$ 0.35	\$ 6.45	\$ 2.25	\$ 0.35	\$ 6.45	\$ 2.25	\$ 0.35	\$ 6.45

1) Maryland Corr. Svcs. Code 11-903 establishes an "inmate welfare fund" consisting of "profits derived from the sale of goods through the commissary operation and telephone and vending machine commissions."

2) Texas Gov't Code 495.027 requires the telephone service provider to pay "a commission of not less than 40 percent of the gross revenue." It further provides that 50% of the revenue received via the commission be deposited in a "victims of crime fund."

EXHIBIT 7



October 31, 2012

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Stephanie A. Joyce

Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

Re: CC Docket No. 96-128, Response to Letter from Wright Petitioners (October 24, 2012)

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") hereby responds to the letter filed October 24, 2012, by counsel for Martha Wright and her fellow sponsors of the Petitions filed in this docket (the "Wright Petitioners"). More specifically, Securus responds to several assertions and requests that are made in Exhibit A to that letter.

- "Long Distance Inmate Telephone Rates Remain Exorbitant." Here the Petitioners ignore record evidence that inmate calling rates are decreasing dramatically. On May 10, 2012, Securus filed a letter with the Commission that included a spreadsheet stating the calling rates for local, intrastate long-distance, and interstate long-distance calls under eight (8) of its contracts. At correctional facilities operated by the Florida Department of Corrections, local calls have a flat rate of \$0.50 and long-distance calls are only \$0.06 per minute, such that a 12-minute call is \$1.92. At facilities operated by the New Mexico Department of Corrections, every type of call carries only a \$0.65 flat-rate charge – a 12-minute interstate call is only \$0.65. In Missouri Department of Corrections facilities, a 12-minute interstate call is \$1.60.

- "Recent Prison Legal News Article Outlines 'Perverse' Commissions." The Wright Petitioners continue to vilify site commissions without acknowledging that correctional agencies need those revenues either to lessen the financial burden that prison operations put on state and county budgets or to implement programs that benefit inmates. The Securus May 10 filing shows that, in states such as Maryland and Texas where site commissions are mandated by statute, rates are higher. Those site commissions, however, fund unquestionably laudable goals: in Maryland, the revenues go to an "inmate welfare fund" (Md. Corr. Svcs. Code 11-903); in Texas, one-half of the revenues go to a "victims of crime fund" (Tex. Gov't Code 495.027). It bears emphasis that these site commissions were enacted by state legislatures and are enforceable as state correctional law.

Arent Fox

- “Tiered Rate Schedule Acceptable to Parties.” Securus addressed this issue in its letter filed in this docket on July 2, 2012. The Wright Petitioners continue, however, to assert that Securus has agreed to a “tiered rate structure”, based on its comments regarding a proposed set of rules that is under consideration by the New Mexico Public Regulation Commission (“NMPRC”). Wright Petitioners Letter, Ex. A at 2. They fail to note, however, that Securus’s support for the “tiered rate structure” was expressly conditioned upon the ability to obtain a rate variance from the NMPRC if the intrastate rate caps would prevent Securus from serving a particular facility or agency. In other words, even a tiered rate structure is too rigid for the inmate telecommunications market.

The Wright Petitioners also mischaracterize the “tiered rate structure” that the NMPRC is considering. They describe it as “i.e., ... for facilities with fewer than 25 prisoners.” *Id.* The unit of differentiation in the proposed rule, however, is number of inmate calling minutes per month at the particular facility: fewer than 5,000; 5,001 to 10,000; 10,001 to 50,000; and 50,001 and higher.

- “One-Year ‘Fresh Look’ Transition Period.” The Wright Petitioners are asking the Commission to impair or abrogate existing contracts. Their use of the term “fresh look” (*id.*) suggests counsel believes that contracts for inmate calling service are legally similar Interconnection Agreements that are executed or arbitrated pursuant to Sections 251 and 252 of the 1996 Telecommunications Act, 47 U.S.C. §§ 251, 252. They are not the same. And in fact, Interconnection Agreements are themselves “creatures of state law” despite being instruments established in a federal statute. *Global NAPs California, Inc. v. Public Utilities Comm’n of State Of Cal.*, 624 F.3d 1225, 1228 (9th Cir. 2010) (citing *Ill. Bell Tel. Co. v. Global NAPs Ill., Inc.*, 551 F.3d 587, 591 (7th Cir. 2008); *Verizon Cal., Inc. v. Peevey*, 462 F.3d 1142, 1152 (9th Cir. 2006)).

The Commission has jurisdiction and authority over interstate telecommunications rates. The Commission does not have jurisdiction or authority over contracts awarded pursuant to state or county procurement regulations.

- “... An Inmate Should Be Permitted to Reinitiate Disconnected Call To Same Number With No Additional Per-Call Charge.” The Wright Petitioners assert that there is a “problem of improperly disconnected calls” and demand that “any per-call charge should be waived automatically” for a call that is shorter than two minutes. *Id.* They do not provide and have never provided evidence that an inmate call was disconnected without any reason or cause.

Inmate telecommunications service providers are required by contract to, at the least, detect attempts to make three-way calls with inmates or to forward an inmate call. In the vast majority

Arent Fox

of contracts, the service providers are required to terminate a call when such activity is detected. The detection technology that Securus uses is best in its class, and has been honed and improved to eliminate as many false positives as is technologically possible. In the rare occasion that a call is disconnected without reason or cause, Securus will refund the per-call charge.

In addition, it is very common for an inmate call to be shorter than two minutes in length by the choice of one or both parties. For these reasons, short inmate calls are not a reasonable ground on which to impose the punitive measure of giving out “automatic” free per-call charges as a matter of federal law.

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Please contact me at 202.857.6081 with any questions. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

Counsel to Securus Technologies, Inc.

Cc: Chairman Julius Genachowski (*All via electronic mail*)
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Commissioner Ajit Pai
Commissioner Jessica Rosenworcel
Michael Steffen, Legal Advisor to Chairman Genachowski
Christine Kurth, Legal Advisor to Commissioner McDowell
Angela Kronenberg, Legal Advisor to Commissioner Clyburn
Nicholas Degani, Legal Advisor to Commissioner Pai
Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel
Sean Lev, General Counsel
Julie Veach, Deputy General Counsel
Deena Shetler, Associate Bureau Chief, Wireline Competition Bureau
Victoria Goldberg, Acting Chief of Pricing Policy Division, Wireline Competition Bureau
Nicholas Alexander, Deputy Chief of Pricing Policy Division, Wireline Competition Bureau
Pamela Arluk, Assistant Chief of Pricing Policy Division, Wireline Competition Bureau
Lynne Engledow, Wireline Competition Bureau
Marcus Maher, Office of General Counsel
Raelynn Remy, Office of General Counsel
Michele Berlove, Wireline Competition Bureau

EXHIBIT 8



September 20, 2011

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Stephanie A. Joyce

Attorney
202.857.6081 DIRECT
202.857.6395 FAX
joyce.stephanie@arentfox.com

Re: CC Docket No. 96-128, Alternative Rulemaking Proposal of Martha Wright, et al.

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus") files this letter to inform the Commission that it will provide updated cost information in this proceeding.

On August 15, 2008, seven providers of inmate telecommunications services, including Securus, submitted a study performed by economist Don Wood after having analyzed those providers' cost information. CC Docket No. 96-128, Inmate Calling Services Interstate Call Cost Study, Wood & Wood (Aug. 15, 2008) ("Wood Study"). The providers each submitted their cost data to Mr. Wood separately under seal, and did not share that data with each other.

The study employed the "marginal cost location" methodology that the Commission has used in this docket when reviewing the costs associated with providing public payphones. Wood Study at 4 n.9. That is, the study included only the costs associated with payphone service provided in correctional facilities where no site commissions are imposed. Without consideration of the cost of site commissions that are secured either by public contract or state statute, the Wood Study concluded that, collectively and on average, the providers experienced the following costs of providing interstate toll calls:

Debit Calls

Fixed Per-Call Cost	\$1.56
Time-Sensitive Transmission Costs	\$0.06

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Collect Calls

Fixed Per-Call Cost	\$2.49
Time-Sensitive Transmission Costs	\$0.07

Wood Study at 4.

The Commission has expressed interest in obtaining updated cost information from Securus. To that end, Securus is reviewing its overall cost of service. Securus will provide the Commission with information as to how its costs today differ from its costs at the time of the Wood Study, expressed as a percentage figure. Securus estimates that it can provide this updated information in approximately three weeks.

Please do not hesitate to contact me with any additional questions or concerns: 202.857.6081. Thank you for your consideration.

Sincerely,

s/Stephanie A. Joyce

Counsel for Securus Technologies, Inc.

cc: Chairman Julius Genachowski (*via electronic mail*)
Commissioner Michael Copps (*via electronic mail*)
Commissioner Robert McDowell (*via electronic mail*)
Commissioner Mignon Clyburn (*via electronic mail*)
Sharon Gillett, Chief, Wireline Competition Bureau (*via electronic mail*)
Austin Schlick, General Counsel (*via electronic mail*)
Zachary Katz, Legal Advisor to Chairman Genachowski (*via electronic mail*)
Margaret McCarthy, Policy Advisor to Commissioner Copps (*via electronic mail*)
Christine Kurth, Legal Advisor to Commissioner McDowell (*via electronic mail*)
Angela Kronenberg, Legal Advisor to Commissioner Clyburn (*via electronic mail*)
Albert Lewis, Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Marcus Maher, Legal Advisor to Chief of the Wireline Competition Bureau (*via electronic mail*)
Pamela Arluk, Assistant Chief, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)
Lynne Hewitt Engledow, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)

Arent Fox

Michelle Berlove, Pricing Policy Division, Wireline Competition Bureau (*via electronic mail*)

Jennifer Prime, Acting Legal Advisor, Office of the Bureau Chief, Wireline Competition Bureau (*via electronic mail*)

EXHIBIT 9



December 17, 2008

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 96-128, Martha Wright Alternative Rulemaking Proposal

Dear Ms. Dortch:

Securus Technologies, Inc. ("Securus"), by and through counsel, files this letter in the above-named proceeding to provide data regarding the duration of inmate-initiated calls.

As Securus has explained, Petitioners' reliance in this case on an average call length of 15 minutes or 20 minutes is not an appropriate ratesetting tool. CC Docket No. 96-128, Letter from Stephanie A Joyce to Chairman Kevin J. Martin at 6-7 (July 7, 2008). Inmate calls are much shorter. For example, Pay Tel Communications, Inc. has stated that the interLATA calls it carries average 9.42 minutes, and interstate calls average 8.87 minutes. CC Docket No. 96-128, Letter from Marcus W. Trathen to Marlene H. Dortch at 2 (Sept. 9, 2008).

Enclosed is the Declaration of Curtis L. Hopfinger, Director of Regulatory Affairs (dated December 17, 2008), setting forth the results of the call analysis performed by Evercom Systems, Inc. and T-Netix, Inc., the operating companies of Securus, at his direction. This analysis, which included the approximately 2,600 facilities that Evercom and T-Netix serve, reveals that 96% of these facilities have average call durations of 14 minutes or less, and 57% of these facilities have average call durations of 9 minutes or less. Hopfinger Dec. ¶ 3.

These results demonstrate that Petitioners' use of average call durations of 15 or 20 minutes, Petition at 19, does not accurately reflect the inmate calling market. As such, using these inaccurate call lengths to analyze cost recovery would result in improper rates. Petitioners rely on a select set of low calling rates, such as the rates charged at Colorado Department of Corrections facilities (\$1.25 per call plus \$0.19 per minute). *Id.* They then calculate that a 20-minute call from these facilities garners "a total per minute cost of slightly over \$0.25." *Id.* Petitioners also rely on the rates in place at Nebraska Department of Corrections sites which are \$0.60 per call plus \$0.16 per minute, resulting in a \$0.20 per-minute rate assuming a 15-minute

call. *Id.* This calculus, Petitioners advocate, demonstrates that the Commission should adopt a per-minute interstate rate of \$0.20 to \$0.25 with no permissible per-call charge.

Petitioners understand that inmate telephone service providers must recover their costs, though they continue to refuse to acknowledge that site commissions are an unavoidable exogenous cost of doing business in this space. Site commissions notwithstanding, all agree that below-cost rates are inappropriate. Indeed, as Securus and others have shown, below-cost would be confiscatory and thus unlawful. *E.g.*, Initial Comments of T-Netix and Evercom at 8 (May 2, 2007) (citing *Verizon v. FCC*, 535 U.S. 467, 524 (2001)). Yet Petitioners want to force providers to recover all costs via per-minute rates that are based on assumed call lengths that are twice the true average call length. If the Commission were to assume a length of even 15 minutes, the resulting rates would be below-cost in 96% of the facility sites that Evercom and T-Netix serve. If it assumed a length of only 10 minutes, rates would be below-cost in 57% of the facilities they serve.

Further, as the Hopfinger Declaration shows, we cannot provide a “silver bullet” answer as to average call duration. Call length, as well as call volume, varies widely across the approximately 2,600 correctional facilities — state, county, and local jails — that T-Netix and Evercom serve throughout the nation. These factors cannot be generalized even by type of jail: a state DOC facility may average 73 calls per month or 10,000 calls per month; a county jail may have an average call length of three minutes or fifteen minutes. Hopfinger Dec. ¶¶ 4-5.

Added to this complex usage data are the unique circumstances that the inmate telephone industry experiences in terms of billing and payment. As Securus has explained, the majority of inmate calls are collect which, as the Commission Rules dictate, cannot be billed absent completion (positive acceptance of the call). Letter from Stephanie A. Joyce to Chairman Kevin J. Martin at 5 & n.5 (May 23, 2008) (citing 47 C.F.R. § 64.705(a)(1)). Securus estimates that only 40% of inmate collect call attempts are completed. *Id.* n.6. Of the inmate calls that are completed, 15% to 20% of the resultant call charges will not be paid. *Id.* Thus, not only are inmate calls shorter than Petitioners believe, the pool of revenue from which Securus must recover its costs is smaller than what typical wireline residential service providers experience. All of these factors render it impossible to derive a per-minute rate that on its own will ensure cost recovery.

For these reasons, if any rate or rate cap is adopted for interstate inmate calls in this proceeding, it must include a per-call charge to ensure that inmate telephone providers recover their costs. As explained in the cost analysis sponsored by several service providers, dated August 15, 2008, this methodology is not only far more likely to permit cost recovery but it also comports with the Commission’s policy that costs should be compensated in the same manner in which they are incurred: per-call costs should be recovered by fixed rate, and per-minute costs should be recovered by a per-minute rate. CC Docket No. 96-128, Inmate Calling Services Interstate Call Cost Study at 16-19. Petitioners’ proposal to exclude all per-call charges for inmate telephone calls therefore would result in unreasonable, unlawful rates.

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Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions or concerns you may have: 202.857.4534.

Very truly yours,

s/Stephanie A. Joyce
Counsel for Securus Technologies, Inc.

cc: Donald Stockdate, Deputy Chief, Wireline Competition Bureau
Marcus Maher, Associate Chief, Wireline Competition Bureau
Randy Clarke, Legal Counsel to Chief, Wireline Competition Bureau
Albert Lewis, Chief, Pricing Policy Division, Wireline Competition Bureau
Pamela Arluk, Assistant Chief, Pricing Policy Division, Wireline Competition Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Implementation of the Pay Telephone
Reclassification and Compensation Provisions
Of the Telecommunications Act of 1996

Petition for Rulemaking, or, in the Alternative,
Petition to Address Referral Issues in Pending
Rulemaking

CC Docket No. 96-128

DECLARATION OF CURTIS L. HOPFINGER

I, Curtis L. Hopfinger, hereby affirm that the following is true and correct:

1. I am Director of Regulatory and Government Affairs for Securus Technologies, Inc. which owns T-Netix Telecommunications Services, Inc. ("T-Netix") and Evercom Systems, Inc. ("Evercom"). My business address is 14651 Dallas Parkway, Suite 600, Dallas, TX 75240.

2. I am over 18 years of age and could testify competently to the facts provided herein. I am providing this Declaration in further response to the Alternative Petition under review in this proceeding.

3. At my direction, Evercom and T-Netix have performed an analysis of the average duration of inmate calls originating from its facilities nationwide. The results of this analysis, in the aggregate, are:

- (a) 96% of all facilities have average call durations of 14 minutes or less
- (b) 57% of all facilities have average call durations of 9 minutes or less

4. Call duration and call volume varies widely across the nearly 2,600 correctional facilities — state, county, and local jails — that T-Netix and Evercom serve. We are unable to provide a unifying rationale for the relationship between type or size of facility and the volume or duration of inmate calls they experience. We can, however, provide some general examples that illustrate how widely these data points vary across our service base. The examples are anonymous as to facility, because site-specific data of this type is not public, is considered proprietary by Securus, and is kept confidential in the ordinary course of business.

Low call volume, average call duration three (3) minutes

County Jail A – Average 18 calls per month; Call duration average of only three (3) minutes

City Jail A – Average 26 calls per month; Call duration average of only three (3) minutes

Higher call volume, average call duration three (3) minutes

City Jail B – Average almost 1,300 calls per month; Call duration average of three (3) minutes

City Jail C – Average over 4,000 calls per month; Call duration average of three (3) minutes

Lower call volume, average call duration seven (7) minutes

County Jail B – Average 18 calls per month; Call duration average of seven (7) minutes

City Jail D – Average 19 calls per month; Call duration average of seven (7) minutes

Higher call volume, average call duration seven (7) minutes

City Jail E – Average over 13,000 calls per month; Call duration average of seven (7) minutes

County Jail E – Average approximately 45,000 calls per month; Call duration average of seven (7) minutes

Lower call volume, average call duration twelve (12) minutes

County Jail F – Average 14 calls per month; Call duration average of twelve (12) minutes

County Jail G – Average 18 calls per month; Call duration average of twelve (12) minutes

Higher call volume, average call duration twelve (12) minutes

County Jail H – Average over 10,000 calls per month; Call duration average of twelve (12) minutes

County Jail I – Average over 11,000 calls per month; Call duration average of twelve (12) minutes

Lower call volume, average call duration fifteen (15) minutes

State Prison A – Average 73 calls per month; Call duration average of fifteen (15) minutes

County Jail J – Average 83 calls per month; Call duration average of fifteen (15) minutes

Higher call volume, average call duration fifteen (15) minutes

County Jail K – Average over 9,000 calls per month; Call duration average of fifteen (15) minutes

Metro Location of State-Operated Prison – Average over 10,000 calls per month; Call duration average of fifteen (15) minutes

5. This type of variance occurs even within one contract that T-Netix has with a State Department of Corrections (“DOC”). Each of the following facilities are within one state, under a single DOC contract, and the calling rates are identical at each:

DOC Site A – Average of approximately 7,500 calls per month; Call duration average of four (4) minutes

DOC Site B – Average of approximately 6,800 calls per month; Call duration average of fourteen (14) minutes

DOC Site C – Average of approximately 600 calls per month; Call duration average of thirteen (13) minutes

On this 17th day of December, 2008, I affirm, in accordance with the laws of perjury in the State of Texas, that the foregoing is true and correct.

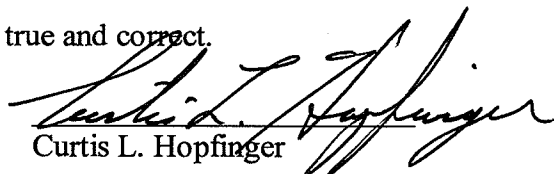
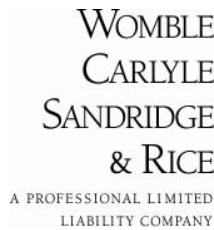

Curtis L. Hopfinger

EXHIBIT 10



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July 7, 2008

VIA ECFS

Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 96-128, Martha Wright Alternative Rulemaking Proposal

Dear Chairman Martin:

Securus Technologies, Inc. ("Securus"), by and through counsel, replies to the *ex parte* letter filed June 27, 2008, by counsel for Petitioners in the above-named proceeding ("June 27 Letter"). Petitioners criticize or seek further explication of the points Securus raised in its letter filed May 23, 2008 ("May 23 Letter"). In response, Securus states as follows:

1. Inmate telephone rates at Florida Department of Corrections demonstrate that the Proposal is unnecessary and unfounded.

Petitioners' highlighting of the rates applied at facilities operated by the Florida Department of Corrections ("FL DOC") merits close consideration. June 27 Letter at 5. In fact, the FL DOC example militates against adoption of the rate cap and debit calling proposals for several reasons. First, the Commission should note that the FL DOC rates always include a per-call fee: \$1.20 for collect calls, and \$1.02 for prepaid calls. June 27 Letter at 5. Petitioners advocate, however, in direct contradiction to their Florida example, for a prohibition on per-call charges. The necessity of per-call rates was explained in Securus's May 23 Letter, and is discussed further in Section 5 below.

Secondly, it is noteworthy that the FL DOC does not have a debit calling system. Petitioners' proposal includes mandatory debit calling at every facility from which interstate calls are or could be placed. One of Petitioners' exemplar states, however, has determined that debit calling is inappropriate.

Third, the FL DOC rates demonstrate that inmate telephone rates are decreasing through operation of the market. Rates in other states, such as the Nebraska DOC sites and the New York DOC sites, are dropping significantly as well. This change is occurring through the

confluence of market forces and the policy decisions of individual states in the way their prisons operate. The Commission should note that States' rights to manage correctional policy remain not only intact, but are being used to achieve lower rates and increased inmate access to telephones. These rates also demonstrate, however, that Petitioners' proposed \$0.25 per-minute rate, with a prohibition on per-call charges, is far too low.¹

Fourth, in response to Petitioners' request that Securus "explain how they are able to provide interstate inmate calling services profitably to some prisons," June 27 Letter at 2, a request that presumably applies to the FL DOC example, Securus states that its services installed at the Florida DOC are provided over an innovative network architecture that took years to develop and has been in use for less than two years. This network is particularly suited for high call volume locations with long-term contract arrangements that enable lower transmission costs and the spread of equipment costs over many calls for many years. Securus is working efficiently to deploy this new network throughout the country, wherever possible. However, this system may not be cost-effective at many locations and, as size and call volumes decrease, costs per call will rise. The intensive efforts that Securus took in developing this system demonstrate that the market is working to reduce both costs and rates without any regulatory intervention.

Fifth, FL DOC facilities experience some of the highest call volumes in the country, which dramatically lowers the apportionment of fixed costs on a per-call basis. These high call volumes are not representative of the entire nation, and are particularly not a valid comparison for county jails that, as Securus has stated, comprise 80% of its client base. May 23 Letter at 2.

For all these reasons, the FL DOC rates represent the bottom edge of inmate calling rates, and should not be deemed a benchmark for a nationwide interstate rate cap.

2. The Commission has not held that site commissions in inmate telecommunications are "profit."

Petitioners maintain that the Commission affirmatively held, in the context of inmate telecommunications, that "location rents are not a cost of payphones, but should be treated as profit." June 27 Letter at 11 (quoting *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Remand & Notice of Proposed Rulemaking, 17 FCC Rcd. 3248, 3262 (2002)) ("*2002 Inmate NPRM*"). This conclusion is not clear from the face of that Order. Rather, as Securus previously stated, it appears that the Commission put the issue of site commissions out for comment without any proposed conclusion.

The *2002 Inmate NPRM* dealt with a request by the Inmate Calling Services Providers Coalition ("ICSPC") for reconsideration of the Commission's decision not to preempt state rate caps for inmate telephone services. The first area of inquiry was the meaning of the mandate in

¹ Interstate collect calls from Nebraska DOC sites are \$0.20 per minute with a \$0.75 per-call charge. If the per-call charge were eliminated as Petitioners seek to do, it would require a 15-minute call to recover that amount. As Securus explains herein, the average length of interstate inmate calls is less than 15 minutes.

Section 276 that payphone providers be “fairly compensated for each and every call.” 17 FCC Rcd. at 3254 ¶ 14. In addressing that issue, the Commission harkened to its 1999 discussion of “location rents” that it reached only with regard to public payphones. *Id.* at 3255 ¶ 15 (quoting *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Third Report and Order, 14 FCC Rcd. 2569, 2562, 2615-16 (1999)) (“1999 Payphone Order”). In full, the 2002 *Inmate NPRM* states:

The Commission has previously described in detail the economic principles that control payphone telephony. Here, it is important to point out that the vast majority of payphone costs are fixed and common, even costs for operator assisted calls. Because of high fixed costs, any specific per call compensation rate will generate a profit or loss depending on how many calls are made from a particular payphone. It is difficult, therefore, to determine “fair compensation” for a particular call from a particular payphone because the “cost” of any call depends on how many other calls are made from that payphone. Finally, the Commission determined a payphone that “earns just enough revenue to warrant its placement, but not enough to pay anything to the premises owner” is “a viable payphone . . . because the payphone provides increased value to the premises.” Therefore, location rents are not a cost of payphones, but should be treated as profit.

17 FCC Rcd. at 3254-55 ¶ 15 (citations omitted).

Nothing in this paragraph indicates that the Commission reached a finding of fact or conclusion of law with regard to the site commissions that correctional facilities obtain in order to defray the costs of administration. Indeed, if the Commission had in fact reached a final conclusion, there would have been no need of the substantial Notice of Proposed Rulemaking that the 2002 *Inmate NPRM* included in which the Commission sought comment on several matters specific to the inmate telecommunications industry:

- “We initiate this rulemaking proceeding to explore whether the current regulatory regime applicable to the provision of inmate calling services is responsive to the needs of correctional facilities, ICS providers, and inmates, and, if not, whether and how we might address those unmet needs.” 17 FCC Rcd. at 3276 ¶ 72.
- “On the other hand, higher commissions may give confinement facilities a greater incentive to provide access to telephone services. Commission proceeds may be dedicated to a fund for inmate services or assigned to the state’s general revenue fund. We seek comment on commissions demanded by correctional institutions, whether and how any states have addressed the relationship between these commissions and inmate calling rates, and on any factors unique to the provision of inmate calling services that affect the profitability of ICS operations.” *Id.* at 3276 ¶ 73.

It is thus far from clear that the Commission has issued any ruling on whether site commissions are a cost to inmate telephone service providers. In fact, it appears that the Commission understands that site commissions are among the factors “that affect the profitability of ICS operations,” *id.*, because they are a cost — not a “profit” — to inmate service providers.

To the extent that the Commission is now considering whether to impose the conclusion about “location rents” from the *1999 Payphone Order* onto the inmate telecommunications industry, that action would be inappropriate. The provision of inmate telephone service differs in major respects from the manner in which public payphones are provided. In the public payphone context, as the Commission found, “location rents” are often divided between the premises owner and the payphone owner. *1999 Payphone Order*, 14 FCC Rcd. at 2562 n.72.² In the inmate context, there is no division of site commission funds. Further, the *1999 Payphone Order* found that location rents are imposed “only when a particular payphone location generates a number of calls that exceeds the break-even number of calls[.]” *Id.* No such threshold exists for the payment of site commissions — they are generally calculated as a percentage of gross revenue. As such, they are unavoidable and fixed.

The record in this proceeding and in this docket does not support superimposing the “location rent” analysis regarding public payphones onto the site commission structure of the inmate telecommunications market. The inmate telephone service providers, who are the regulated entities over whom the Commission holds interstate ratemaking jurisdiction, do not “split” site commission revenues with facilities and do not have a revenue threshold below which site commissions are excused. Site commissions are a top-line cost for the entities to which Petitioners’ rate proposal will apply. As such, any rate that is adopted in this proceeding must include recovery of site commissions, or it will be confiscatory and unlawful. *Verizon v. FCC*, 535 U.S. 467, 524 (2001) (quoting *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 312 (1989)).

3. Securus never suggested that rates must be set on a site-by-site basis, but rather it explained that Petitioners’ reliance on large facilities with high call volumes results in an inaccurate understanding of costs.

Petitioners criticize Securus for explaining that jail size and call volume are crucial variable factors in determining cost, arguing that the Commission has held elsewhere that telecommunications charges must not “be based on ... the costs of actual facilities used to provide service to a particular customer.” June 27 Letter at 3 (quoting *New Valley Corp. v. Pacific Bell*, 15 FCC Rcd. 5128, 5130 (2000)).

Petitioners misunderstand Securus’s point. The significance of the wide variance in jail size and call volume was raised not to request adoption of *ad hoc* inmate telephone rates, but rather to show that Petitioners’ cost model is inapposite. Petitioners base their proposed rates on

² “Finally, we note that, when a payphone earns positive profits, it is not clear exactly how the payphone provider and location owner will negotiate the division of those profits.” *Id.*

data obtained in the Wright litigation which regards three very large facilities operated by the Corrections Corporation of America. May 23 Letter at 2-3. This data bears almost no relation to the smaller prisons and jails that comprise 80% of Securus's client base. *Id.* at 2. Accordingly, Petitioners' aggressive proposal for a \$0.20/\$0.25 interstate rap cap is not based on a proper view of the costs of providing inmate telecommunications.

4. Rates applied to automated interstate collect payphone calls are an appropriate point of comparison for inmate telephone rates.

Petitioners decry as "bogus" the comparison that Securus has drawn to the rates charged to users of public payphones for automated interstate collect calls. June 27 Letter at 8. Petitioners' analysis, however, fails to support their outlandish rhetoric. The rate comparison that Securus provided (May 23 Letter, Exh. B) demonstrates that long-distance carriers, who do not face the security requirements of inmate phones, are charging up to \$6.40 more for 10-minute interstate calls than T-Netix, and \$5.04 more than Evercom. Petitioners argue that these significantly higher rates "are paying for the convenience of making a call without a cell phone or a calling card," June 27 Letter at 8, but what must be noted is that these higher rates **do not** include site commissions or the increased costs of security features. For Petitioners nonetheless to maintain that inmate service providers are reaping exorbitant profits is comparatively hyperbolic.

Petitioners quote, somewhat curiously, a conclusion from the *CLEC Access Charge Order* stating that carriers had been collecting access charges from "consumers that have no competitive alternative." June 27 Letter at 8 (quoting *Access Charge Reform*, CC Docket No. 96-262, 16 FCC Rcd. 9923, 9938 (2001)).³ Presumably Petitioners are analogizing to the fact that inmates are incarcerated and therefore do not have their own telephones. But Petitioners cannot say that the users of public payphones have any better "competitive alternative" than do inmates — these consumers may not be able to afford "a cell phone or a calling card," June 27 Letter at 8, and may not have sufficient credit to be qualified to obtain residential telephone service. Yet these end users pay rates that are up to 56% higher than Securus's rates for a payphone service that includes none of the specialized security features Securus must provide. Analysis of public payphone rates is thus entirely appropriate when determining whether inmate telephone rates are, as Petitioners argue, disproportionate to costs.

³ Also curious is that Petitioners borrow language from the Commission's International Settlement Rates order in a manner suggesting that the Commission has found that inmate providers "withheld the very cost data that would have enabled the Commission to establish precise, cost-based rates[.]" June 27 Letter at 9 (quoting *Cable & Wireless PLC v. FCC*, 166 F.3d 1224, 1233 (D.C. Cir. 1999)). The Commission has never found that the inmate telecommunications carriers have "withheld" information, and in fact there has been no Notice of Proposed Rulemaking for the Wright Petition by which such information could have been requested. Petitioners in fact recognize that the Commission may need to issue "an order requiring inmate service providers to submit data proving their service costs." Alternative Rulemaking Proposal at 29-30.

5. Petitioners' presumption of the length of inmate calls is not accurate, demonstrating that per-call rates remain appropriate.

Petitioners' proposed rate caps were derived from an analysis that presumes inmate calls to be 20 minutes in duration. Proposal at 19, 21. The Declaration of Douglas A. Dawson, appended thereto, relies on 15-minute calls and 20-minute calls for its analysis. Dawson Dec. ¶¶ 24, 42. For example, Petitioners use the rates applied at Colorado Department of Corrections facilities — \$1.25 surcharge plus \$0.19 per minute — divide by 20, and arrive at a “per minute cost of slightly over \$0.25 for a 20-minute call.” Proposal at 19. Essentially, Petitioners wish to eliminate all per-call charges by apportioning them over long inmate calls, resulting in a per-minute rate that roughly supports, via the rates they especially chose, the proposed rate caps of \$0.20 for debit calls and \$0.25 for collect calls.

One cannot assume such a long duration of inmate calls. The average length of interstate inmate calls is likely closer to 12 minutes, which under Petitioners' analysis would result in carriers being unable to recoup their costs of the call. It is for this reason that Securus has emphasized the need to adopt a per-call call charge, with time-sensitive charges passed through on an additional per-minute basis. The per-call charge is necessary to recover the fixed costs of the calling equipment, software development, and security features that Securus and other inmate telephone providers necessarily incur. May 23 Letter at 5. Moreover, as Securus explained previously, the fact that less than 40% of call attempts result in an accepted, billable call makes it crucial that all billed calls include a fixed per-call rate. *Id.* Petitioners' reliance on 15-minute and 20-minute calls in order to eliminate per-call charges is thus particularly misplaced in this market.

Based on its experience, Securus can state that the majority of its calls are much shorter than 15 minutes. In fact, Securus has found that inmates often attempt to avoid telephone charges by speaking for a matter of seconds, then hanging up, in hopes that the system would not have commenced billing for the call. This activity results in a significant proportion of calls being one minute in duration. Adoption of a \$0.25 per-minute rate and a prohibition on per-call charges, as Petitioners advocate, would entitle Securus to a mere \$0.25 for a completed one-minute inmate call.

In addition, call duration varies widely among types of correctional facilities. For example, calls from county jails are apt to be short, because those persons are detained for mere hours and generally use the telephone simply to arrange bail and legal representation. In state DOC facilities, by contrast, inmates will often speak for as long as permitted by the warden. It would be extremely difficult for the Commission to adopt a nationwide number for the duration of interstate calls such that it could ensure that carriers recover their costs via only a per-minute rate. And in fact the record demonstrates that per-call charges are the norm for interstate inmate calling rates, with the exception of Indiana Department of Corrections (“DOC”) rates for prepaid calls.⁴

⁴ All collect calls from Indiana DOC facilities include a per-call charge; at the \$0.25 per-minute rate, the per-call charge is \$1.50. See May 23 Letter at 4; Proposal, Exh. 13. The per-call charge was removed only for prepaid

Given the high fixed costs of inmate telecommunications service, and the tendency of inmate calls to be short and thus render fixed costs more difficult to recover, any rate that the Commission adopts should include a per-call charge. Time-sensitive cost components, such as transmission costs, would be appropriately recovered in the subsequent per-minute rate. This structure will better ensure cost recovery and is in keeping with the Commission's preference for separating the recovery of fixed versus time-sensitive costs in explicit rates. *E.g.*, 1999 *Payphone Order*, 14 FCC Rcd. at 2587-88 ¶¶ 97-99; *Access Charge Reform*, CC Docket No. 96-262, First Report and Order, 12 FCC Rcd. 15,982 ¶¶ 9, 16 (1997)

6. Allegations of disconnected calls provide no basis to eliminate per-call charges.

Petitioners raise the spectre of alleged "dropped" or disconnected calls as grounds to prohibit all "surcharges," or fixed per-call rates, for inmate calls. June 27 Letter at 7-8. These allegations are unfounded and uninformed.

Securus's inmate calling technology does not unwarrantedly disconnect calls. Rather, the technology was developed and is continually refined to ensure that inmates and their called parties do not make three-way calls or chain calls — such calls circumvent the security feature that prevents from calling protected persons such as judges, jurors, and witnesses. *See* May 23 Letter at 3. Securus's technology will "listen" for certain "events" that indicate that someone is attempting to engage a second line or to forward a call to another number. It is a specific combination of "events" that the system is geared to detect, not a mere pause in conversation as some have claimed. These events include lack of all ambient noise and transmission energy, and a spike in energy that indicates the pressing of the keypad or "clicking over" to a conferenced line. A combination of these events must occur, close in time, for the system to determine that unlawful call activity has taken place and disconnect the call.

Calls are not disconnected on mere whim. It is Securus's understanding that other inmate service providers, such as Pay Tel Communications, take similarly stringent precautions to ensure that inmate calls are not disconnected without reason. Accordingly, the instances in which a call is disconnected without cause are truly rare.

In addition, if a party believes that an inmate call was disconnected improperly, Securus has standard procedures for contesting a call charge and requesting a refund. When a billed party contests a charge on the ground that a call was disconnected and required the inmate to re-dial, Securus will investigate the call to discern whether the disconnection was appropriate. In Securus's experience, the vast majority of investigations reveal that in fact the inmate or the called party was attempting to make a three-way or forwarded call, and thus the disconnection was warranted. In the event that the call evidence does not support such a finding, Securus refunds the per-call charge of the second call.

calls. This rate change was not evident from Petitioners' Exhibit 13, and in fact required an email from Petitioners' counsel to the Indiana DOC for confirmation. June 27 Letter, Att. B.

Allegations of disconnected calls therefore do not justify the elimination of per-call charges for interstate inmate calls. In all but a *de minimis* amount of cases, disconnected calls do not result in improper per-call charges. To prohibit per-call charges entirely would be a grossly disproportionate response and would preclude appropriate cost recovery for the vast majority of calls.

7. Petitioners are mistaken about the proportion of inmate calls that are interstate.

Petitioners assert, based on the 2002 *Inmate NPRM*, that “most calls from city and county facilities are local or intraLATA toll.” June 27 Letter at 3-4 (citing 2002 *Inmate NPRM*, 17 FCC Rcd. at 3253). They postulate that only “[t]he occasional interstate call” will be placed from “a jail or small prison.” *Id.* at 4. On this premise, Petitioners argue that the interstate calls to be affected by the rate cap will come from large state prisons that often entail “lower costs” — actually, the proper metric is higher call volume — and thus the low rate cap will permit appropriate cost recovery. From this flawed basis, Petitioners conclude that the drastically low \$0.25 per-minute cap will enable carriers to recover their costs for interstate calls. June 27 Letter at 4.

Petitioners are mistaken in believing that only “the occasional interstate call” will come from county and city jails. Often county jails agree to house inmates from other counties, even across state borders. Those inmates will be placing interstate calls. Securus, for example, serves over 80 county facilities where more than 50% of all inmate calls are interstate calls. In addition, Securus serves hundreds of county facilities where over 25% to 30% of inmate calling is interstate in nature. Further, interstate calling is prevalent in many county and city facilities along the nation’s southern border and in numerous counties located close to state lines. To claim that interstate calling from county and city jails is *de minimis* or insignificant is thus simply wrong. Therefore, it would be unfounded for the Commission to conclude that only large, high-volume facilities initiate the vast bulk of interstate calling.

Further, it would be improper for the Commission to impose the \$0.25 per-minute rate on smaller facilities that, as Petitioners implicitly concede, do not exhibit the economics to support it. *See* June 27 Letter at 3. In fact, Petitioners’ misconception of the amount of interstate calling from county and city jails would impose two concurrent negative impacts on cost recovery at these facilities. First, virtually all of these facilities will have considerably less overall call volume, compared to the huge facilities used in Petitioners’ analysis, which to spread the fixed cost of the inmate telephone system. Secondly, and as a result, Petitioners expect this low volume of intrastate calls, which are already extremely costly on a per-call, to recoup the cost of extremely below-cost interstate calls at \$0.25 per minute with no per-call charge.

Finally, Petitioners’ facile treatment of smaller facilities invites the Commission to force carriers to use large facilities to subsidize smaller ones. They state that if “[t]he occasional interstate call” is “made from a jail or small prison,” and the \$0.25 rate is below cost, the Commission need not be concerned because “a service provider, such as Securus ... enjoys economies of scale from serving state prison systems and other large facilities.” June 27 Letter at 4. In other words, the Commission should impose disproportionate costs on large facilities

and expect them to subsidize interstate calls from smaller ones. This argument runs directly contrary to the disdain for implicit subsidies that is clear in the last decade of the Commission's wireline regulation. *E.g.*, *Access Charge First Report and Order*, 12 FCC Rcd. 15,982 ¶¶ 9, 16; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd. 8776 ¶ 2 (1997). In fact, this call for subsidies contravenes the Commission's conclusion in this very docket that, for public payphones, compensation rules must not "unfairly require one segment of payphone users to disproportionately support the availability of payphones to the benefit of another segment of payphone users." *1999 Payphone Order*, 14 FCC Rcd. at 2570 ¶ 57.⁵

8. Petitioners are mistaken about the frequency with which service contracts are renegotiated shortly after execution.

Petitioners assert that their proposed 12-month transition period is appropriate, June 27 Letter at 12, despite Securus's explanation that this period is far too short to enable the renegotiation of the more than 2,000 contracts it presently holds throughout the country. May 23 Letter at 9. Petitioners attempt to refute Securus's argument with a sweeping generalization that inmate telephone service contracts are "being renegotiated" with lower rates soon after their initial execution, such that "it seems unlikely that" amending 2,000 contracts "would be unmanageable" for Securus. June 27 Letter at 12.

Inmate contracts are not "being renegotiated" unless they are close to expiry. The one exception to this rule is that in Indiana, the DOC agreed to accept new rates for debit calls after execution of the contract with T-Netix. *See* June 27 Letter at 6. At the time of contract, the Indiana DOC could not accommodate debit calling. After the debit systems were in place – three years later – the contract was amended slightly to adopt specific rates for these calls. *See id.* This situation is far from the norm in the inmate telecommunications industry. Moreover, the Indiana DOC arrangement represents not a contract renegotiation but simply a service addition. No other call rates were changed.

The rates in Securus's contracts are not routinely being changed prior to expiration, and to do so now would create an enormous disruption in the performance of its contracts. Entire contracts, and possibly the public bidding process, would have to be re-opened. To perform this onerous task in a mere 12 months would be impossible.

* * * *

Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions or concerns you may have: 202.857.4534.

⁵ The June 27 Letter may also be suggesting that intrastate rates should subsidize the proposed \$0.25/\$0.20 per-minute interstate rate at facilities that experience "[t]he occasional interstate call." That result would likewise be inappropriate.

Very truly yours,

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